

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

JOHNNY B. HOLMES,

Plaintiff,

vs.

**AMERICAN INTERNATIONAL GROUP, INC;
AMERICAN GENERAL CORPORATION;
AMERICAN GENERAL FINANCE, INC.;
AMERICAN GENERAL FINANCIAL SERVICES
OF ALABAMA, INC.; AMERICAN GENERAL
FINANCE CORPORATION;
MERIT LIFE INSURANCE COMPANY;
YOSEMITE INSURANCE COMPANY;
BRIAN SCALF; STEPHANIE CROW;
and Fictitious Defendants “A”,
“B”, and “C”, whether singular or plural, those
other persons, corporations, firms, or other
entities whose wrongful conduct caused
the injuries and damages to the Plaintiff,
all of whose true and correct names are
unknown to Plaintiff at this time, but will
be substituted by amendment when ascertained,**

Defendants.

**Civil Action No.
3:06-cv-00033-MEF**

MOTION TO REMAND

Plaintiff moves this Honorable Court, pursuant to 28 U.S.C. §1447, to remand this case to the Circuit Court of Macon County, Alabama, for the following reasons:

1. This Court lacks subject matter jurisdiction over this action.
2. There is no “federal question” to afford this Court jurisdiction pursuant to 28 U.S.C. §1331 because:

(a) This case does not arise under the Constitution, laws, or treatise of United States; and

(b) The only claims asserted by Plaintiff are for violations of Alabama law.

3. Removal is improperly based on the grounds of diversity of citizenship. Defendants Brian Scalf and Stephanie Crow have not been fraudulently joined and this Court should consider their citizenship.

4. Removal is improper, because Defendants fail to prove that the amount in controversy is satisfied.

5. These issues will be addressed in the Memorandum Brief filed with this Motion.

/s/ Charles Lance Gould
C. LANCE GOULD (GOU007)
Attorney for Plaintiff

OF COUNSEL:

**BEASLEY, ALLEN, CROW,
METHVIN, PORTIS & MILES, P.C.**
Attorneys at Law
Post Office Box 4160
Montgomery, AL 36103-4160
(334) 269-2343
(334) 954-7555 (fax)

CERTIFICATE OF SERVICE

I hereby certify that on this the 10th day of February, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

/s/ Charles Lance Gould
OF COUNSEL

Jeffrey M. Grantham
John Thomas Aquina Malatesta, III
Thomas Julian Butler
Maynard, Cooper & Gale, P.C.
1901 Sixth Avenue North
2400 AmSouth/Harbert Plaza
Birmingham, AL 35203-2618
205-254-1035
Fax: 205-254-1999

David Alan Elliott
Matthew Thomas Mitchell
Robert Howard Rutherford
Burr & Forman LLP
420 North Twentieth Street
Suite 3100
Birmingham, AL 35203
205-251-3000
Fax: 205-458-5631